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1. Enter your comment, indicating the relevant section in the document to which your comment refers.
2. In the next paragraph copy and paste the paragraph or sentence as it exists in the BPU draft.
3. In the following paragraph rewrite/edit the material as you would like it to appear.
4. If your comment requires a new section or chapter please indicate so in item 1 and then provide the language as you would like it to appear.

#### **SUBCHAPTER 8. Vegetation management (tree trimming) standards 1**

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Under §57 of the Electric Discount and Competition Act of 1999 ("EDECA"), N.J.S.A. 48:3-49, et seq., the New Jersey Board of Public Utilities must adopt appropriate standards to assure the continued provision of "high quality, safe and reliable service" to electric utility customers in the restructured electric utility environment. Recognizing that trees and other vegetation are factors in causing service interruptions, part of an overall approach to providing safe and reliable electric service is to maintain trees and other vegetation so as to prevent contact with electric facilities.

Until recently, each of the State's electric utilities has implemented its own vegetation management program, without being required to adhere to State-imposed standards. These proposed rules have been drafted to ensure that New Jersey's electric utilities meet uniform standards in the performance of vegetation management in and around their facilities.

## 14:5-8.1 Purpose and Scope

- The scope states that the utility must ensure public safety. While it is the utility's responsibility to follow the highest standard of care, does this mean that the utility is responsible to ensure public safety?
- How does this subchapter apply to REA's, REC's, Municipal Electric Systems and other public utilities such as Telephone and Cable Companies?

This subchapter sets forth requirements that must be met by utilities in the management of vegetation in proximity to energized facilities, such as power lines, in order to ensure public safety and the efficient and reliable supply of electric power.

This subchapter sets forth requirements that must be met by utilities in the management of vegetation in proximity to energized facilities, such as power lines, in order to provide for the safe, efficient and reliable supply of electric power.

## 14:5-8.2 Definitions

- The current document is ANSI Z133.1 – 2000 Revision of ANSI Z133.1 – 1994.

"ANSI Z133.1" means the document entitled *1994 Pruning, Trimming, Repairing, Maintaining, and Removing Trees, and Cutting Brush - Safety Requirements*, published by the American National Standards Institute, obtainable at [www.ansi.org](http://www.ansi.org), and amendments and supplements thereto.

"ANSI Z133.1" means the document entitled *2000 Pruning, Trimming, Repairing, Maintaining, and Removing Trees, and Cutting Brush - Safety Requirements*, published by the American National Standards Institute, obtainable at [www.ansi.org](http://www.ansi.org), and amendments and supplements thereto and/or the most current.

- The current document is ANSI A300 (Part 1) – 2001 Revision of ANSI A300 – 1995.

"ANSI A300 " means Part 1 of the document entitled *Tree, Shrub, and other Woody Plant Maintenance-Standard Practices*, published by the American National Standards Institute, obtainable at [www.ansi.org](http://www.ansi.org), and amendments and supplements thereto.

"ANSI A300 " means (Part 1) - 2001 of the document entitled *Tree, Shrub, and other Woody Plant Maintenance-Standard Practices*, published by the American National Standards Institute, obtainable at [www.ansi.org](http://www.ansi.org), and amendments and supplements thereto.

"Arboriculture" means the cultivation of trees, shrubs and other woody plants.

"Contractor" means a person with which a utility contracts to perform work and/or to furnish information and/or material, and shall include all subcontractors engaged by a contractor to perform any of the obligations required by a contract.

"Electric utility arboriculture" means the proper care of trees and other woody plants in order to provide safe, reliable electric service.

"Energized facility" means an electric circuit or piece of equipment through which electricity is flowing.

"OSHA" means the United States Occupational Safety and Health Administration.

- The definition of vegetation management should include pruning and trimming of trees.

"Vegetation management" means removing trees and/or other vegetation, or preventing vegetative growth, for the purpose of maintaining safe conditions around energized facilities and maintaining reliable electric service. Vegetation management options include biological, chemical, cultural, manual and mechanical methods of controlling vegetation in order to prevent hazards caused by the encroachment of vegetation on facilities, and to provide utility access to the facilities.

"Vegetation management" means removing, pruning or trimming trees and/or other vegetation, or preventing vegetative growth, for the purpose of maintaining safe conditions around energized facilities and maintaining reliable electric service. Vegetation management options include biological, chemical, cultural, manual and mechanical methods of controlling vegetation in order to prevent hazards caused by the encroachment of vegetation on facilities, and to provide utility access to the facilities.

- Planned vegetation management should be included as a distinct, defined term. See comment on N.J.A.C. 14:5-8.7.

Planned vegetation management – vegetation management that relates to the regularly-scheduled inspection and maintenance of energized facilities and takes place at least once every four years.

### 14:5-8.3 General provisions

- 14:5-8.3(a) The last sentence that makes the electric utility responsible for meeting the tree trimming standards even when it is not the sole owner of the facility needs to include a limitation that the responsibility applies only to the facilities actually operated by the electric utility. The electric utility should be responsible for complying with those standards that apply to only the electric facilities rather than everything on a pole.
- (a) Each electric public utility, as defined at N.J.A.C. 14:4-1.2, that owns, in whole or in part, any facilities that are subject to this subchapter, shall comply with this subchapter. If an electric public utility company is not the sole owner of a facility subject to this subchapter, the utility company shall nonetheless be responsible for ensuring that the requirements of this subchapter are met.
- (a) Each electric public utility, as defined at N.J.A.C. 14:4-1.2, that owns and operates, in whole or in part, any facilities that are subject to this subchapter, shall comply with this subchapter. If an electric public utility company is not the operator of a facility subject to this subchapter, the utility company shall not be responsible for ensuring that the requirements of this subchapter are met.
- 14:5-8.3(b) With the standards requiring that an electric public utility and/or its contractors obtain all required permits and licenses no provision should be put in the permits and licenses without consideration of the possible cost to the electric utility's customers.
- (b) Prior to starting vegetation management activities on energized facilities, an electric public utility and/or its contractors shall obtain all required permits and licenses.
- (b) Prior to starting vegetation management, an electric public utility and/or its contractors shall obtain all required permits and licenses.
- 14:5-8.3(c) The definition, identification and determination of a violation should be the responsibility of an appointed BPU representative.
- (c) An electric public utility that violates this subchapter shall be subject to fines of up to \$100 per day per violation, starting upon the date of the violation.

#### **14:5-8.4 Maintenance cycle**

(a) An electric public utility shall inspect the vegetation in proximity to all energized facilities at least once every four years, to determine if vegetation management is needed.

- 14:5-8.4(b) Standards should also permit that the proper amount of clearance from all facilities be granted. The standards require that the electric utility inspect and maintain the vegetation as necessary every four years. It is only logical then that the standards should allow for a minimum of four years of clearance from all vegetation to the electric facilities in order to maintain the safety and reliability of these facilities.

(b) If potential problems are found during the inspections required under (a) above, the electric public utility shall ensure that maintenance is performed as required under 14:5-8.5.

#### **14:5-8.5 Technical standards for vegetation management**

- 14:5-8.5(a)-(d) The listed eight standards may not be completely consistent or compatible with one another, especially given the varied sources that issue them. Since this is the case, consideration should be given to the development of one state standard/guideline that could be uniformly applied. This standard/guideline could take in the following references however when written it will be more clear, concise, and direct by being written out.
- 14:5-8.5(a)-(d) We would suggest a committee be formed consisting of members of the electric public utilities, contractors, and representatives of the BPU to write the technical standard for this subchapter.

(a) An electric public utility shall perform vegetation management in compliance with the standards and documents listed in (d) below, as well as with any applicable safety regulations, guidance, laws, or rules.

(b) Each electric public utility shall employ a vegetation manager (VM). The VM shall be a utility employee, not a contractor, who is responsible for all aspects of the utility's vegetation management program, and for ensuring compliance with this subchapter.

(c) Pruning of all trees for the purpose of line clearance shall be made by employing the latest industry standards and acceptable practices.

(d) In performing vegetation management, each electric public utility shall ensure compliance with all of the following:

1. Pruning Trees Near Electric Utility Lines, by Dr. Alex L. Shigo;
2. ANSI A300, as defined at N.J.A.C. 14:5-8.2;
3. Tree Pruning Guidelines, published by the International Society of Arboriculture;
4. Environmental Stewardship Strategy for Electric Utility Rights-of-Way, published by the Edison Electric Institute Vegetation Management Task Force; and
5. Pruning Standards for Shade Trees, published by the New Jersey Board of Tree Experts.
6. Regulations governing Electric Power Generation, Transmission, and Distribution, promulgated by the United States Occupational Safety and Health Administration at 29 CFR Part 1910.269;
7. ANSI Z133.1, as defined at N.J.A.C. 14:5-8.2; and
8. All applicable requirements of the “New Jersey High Voltage Proximity Act”, N.J.S.A. 34:6-47.1 et seq., and implementing rules at N.J.A.C. 12:186.

- 14:5-8.5(e) Eliminate this requirement. The utility guideline may not have changed as a result of the change in the standard.

(e) If the requirements set forth at (d) above are amended or modified, each electric public utility shall provide copies of the utilities’ standards/guidelines to the Board no later than 30 days after the effective date of the amendment or modification;

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- 14:5-8.5(f) It is an unreasonable expectation that the utility ensure compliance of each applicable requirement. The contractors are responsible and required by their contract with the utility to conform to all applicable Federal, State, County, and Municipal rules and regulations.

(f) The electric public utility shall ensure that all contractors inform their employees of all applicable Federal, State, County, and Municipal rules and regulations that apply to the contractors' work, and shall ensure that the contractor complies with each applicable requirement.

~~(f) Each electric public utility must require its vegetation management contractor to inform the contractor’s employees of all applicable Federal, State, County, and Municipal rules and regulations that apply to the contractors' work and must require the contractor to comply with all applicable Federal, State, County, and Municipal rules and regulations that apply to the contractor’s work.~~

## 14:5-8.6 Training

- 14:5-8.6 (a) While training is a critical aspect of an effective vegetation management program the expectation that the utility provides and monitors the contractor training is inappropriate and unreasonable. The contractors are hired for their expertise and are responsible for the training of their employees in all the areas listed in item (a).
- 14:5-8.6 (a) The major contractors that perform line clearance tree work in the industry have been in the business from 75 to 100 years. They have vast knowledge and experience in this field. They are the experts in the industry. It must be the responsibility of the contractors to train their own employees. They already have training programs in place. Federal regulations mandate that all line clearance contractors have an extensive training program in place before they are permitted to work closer than 10 feet to energized conductors. In many cases the people that developed these training programs for the contractors are the same people that wrote the regulations quoted in 14:5-8.5 (d). There is no need for the electric utility industry to duplicate a training program that has been developed by some of the most knowledgeable and respected people in the industry. The programs of these companies have been in place since the mid-to-late 1990's. Provided that the qualified person is an employee of the utility then the training requirement would be appropriate.

(a) Each electric public utility shall provide training and on-the-job experience to ensure that all personnel that perform vegetation maintenance, whether employees or contractors, are trained in proper electric utility arboriculture and safety practices, are knowledgeable regarding techniques in line clearance, and has demonstrated the ability to perform the safety requirements and special techniques involved. This qualified person may or may not be currently employed by a line clearance contractor.

(a) Each electric public utility must provide, or require its vegetation management contractor to provide, adequate training and on-the-job experience to ensure that all personnel that perform vegetation management, whether employees or contractors, are trained in proper electric utility arboriculture and safety practices, are knowledgeable regarding techniques in line clearance, and have demonstrated the ability to perform the safety requirements and special techniques involved. This qualified person may or may not be currently employed by a line clearance contractor.

- 14:5-8.6 (b) The utility should only be obligated to require that their contractors conduct and document all training and have those records available within a set period of time.

(b) Each utility shall keep records of all personnel that perform vegetation management, and the dates and types of training that each has received.

(b) Each electric public utility must require its vegetation management contractor to keep records of all personnel that perform vegetation management, and the dates and types of training that each of its personnel has received. The contractor must be required to provide such records to the electric public utility upon request within 5 business days of any such request.

### **14:5-8.7 Public notice of planned tree trimming**

- 14:5-8.7 (a) (c) Although the heading for this section includes the word, "planned", the text of these sections do not. We suggest adding "planned: before "vegetation management" whenever it appears in this section. The purpose for this is that this entire section should not apply to any type of emergency trimming needed to restore service to customers, whether it is the customer affected by the outage or another customer upon who's property the tree is located.
- A definition for planned vegetation management will need to be added to 14:5-8.2 Definitions.

(a) The utility shall make a reasonable attempt to notify all affected tree and/or property owners affected by vegetation management, prior to performing vegetation management activities that will affect their property. This requirement shall be satisfied if the utility provides written notice to affected tree and/or property owners at least seven days prior to performing any planned vegetation management activities. Notice may be in any form reasonably calculated to provide actual notice, including but not limited to printed door-hangers, mailings, and/or e-mail notice.

(a) The electric public utility shall make a reasonable attempt to notify all tree and/or property owners affected by planned vegetation management, prior to performing planned vegetation management activities that will affect their property. This requirement shall be satisfied if the utility provides written notice to affected tree and/or property owners at least seven days prior to performing any planned vegetation management activities. Notice may be in any form reasonably calculated to provide actual notice, including but not limited to printed door-hangers, mailings, and/or e-mail notice.



- 14:5-8.7 (b) the contractors working for JCP&L currently maintain this type of record and provide it to JCP&L when requested to do so.

(b) An electric public utility shall maintain a record of the dates, content, and recipients of all notices provided under (a) above.

(b) Each electric public utility must require its vegetation management contractor to maintain a record of the dates, content, and recipients of all notices provided under (a) above and to provide such records to the electric public utility upon request within five business days of such a request.

- 14:5-8.7 (b) The standard should identify exactly who in the municipalities and public authorities should be notified. Currently JCP&L notifies the police departments and the administrator's office before work starts, however there are claims made that the local governments are not notified. Each municipality and public authority should provide a contact and when that contact changes notify the utility.

(c) An electric public utility shall notify municipalities and public authorities that may be affected by vegetation management activities. Such notice shall be in writing, at least 14 days in advance of the vegetation management activities. Such notice shall include the planned dates and locations of the vegetation management activities.

(c) An electric public utility shall notify municipalities and public authorities that may be affected by planned vegetation management activities. Such notice shall be provided in writing, mailed to the municipality or public authority at least 14 days in advance of the planned vegetation management activities. Such notice shall include the planned dates and locations of the planned vegetation management activities.

- 14:5-8.7 (d) The requirements of each municipality vary so greatly that a consistent and uniform application of the tree trimming standards are near impossible.
- 14:5-8.7 (d) including the last statement in this subchapter would give the local government the ability to dictate the clearances permitted without accountability for the impact. By permitting this type of authority a local government could limit the amount of clearance using a local regulation that may affect not only the local area's reliability but could also affect customers outside of the area.

(d) Notice regarding planned vegetation management work shall be appropriate to each electric public utility's policies and procedures, and easement rights; and shall conform to the requirements of each municipality in which the vegetation management activities will be performed.

(d) Notice regarding planned vegetation management work shall be appropriate to each electric public utility's policies and procedures, and easement rights.

#### **14:5-8.8 Outreach programs**

(a) Public Awareness - Each electric public utility shall at least once a year inform its customers, as well as the municipalities and public agencies in its service territory, of the utility's vegetation management program, by bill insert, bill imprint, separate direct mailings or public meetings.

(b) Each electric public utility company shall conduct a public education program to inform all persons in its service territory of the importance of and reasons for vegetation management, and of the utility's role and responsibilities in managing vegetation near electric lines. The public education program shall be posted on the utility's website.

#### **14:5-8.9 Reporting**

Each utility shall include in the annual report required under N.J.A.C. 14:5-7.8 information regarding its vegetation management practices during the preceding year. This information shall include, at a minimum, each municipality in which vegetation management was performed during the preceding year, and all circuits affected.